

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Arthur P. and Gloria J. Fields
DOCKET NO.: 05-01358.001-R-1
PARCEL NO.: 14-2-15-33-15-403-007

The parties of record before the Property Tax Appeal Board are Arthur P. and Gloria J. Fields, the appellants, and the Madison County Board of Review.

The subject property consists of a one-story brick and frame dwelling that was built in 1994 and contains 2,530 square feet of living area. The dwelling features a full, partially finished walkout basement, two and one-half bathrooms, a whirlpool, central air conditioning, two fireplaces, a patio, a deck, and a three-car attached garage. The subject dwelling is situated on a 13,272 square foot lake front lot.

The appellants submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. More specifically, the appellants claim the subject property's market value is diminished because of a zoning violation, which renders the property without a marketable title. In support of these arguments, the appellants submitted a letter outlining the appeal, a plat of survey, and a real estate appraisal of the subject property prepared by a state licensed appraiser.

The appellants' letter explained the builder of the subject dwelling did not set the structure on its site properly to conform to local zoning regulations. The appellants contend the plat of survey shows a portion of the subject dwelling crosses a set back line. The appellants contend they have a legal opinion indicating the location the builder placed the home on the lot renders the property without a marketable title. The appellants did not indicate who rendered the purported legal opinion nor was it submitted for the Board's consideration. The appellants argued a marketable title is reasonably free that a prudent buyer would be willing to accept free from question that might present a reasonable risk of litigation.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Madison County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	20,910
IMPR.:	\$	97,910
TOTAL:	\$	118,820

Subject only to the State multiplier as applicable.

The appraisal submitted by the appellants estimated a fair market value for the subject property of \$291,000 as of March 1, 2006. The appraiser developed the cost and sales comparison approaches to value in arriving at the final value conclusion. Page 1 of the appraisal disclosed the subject has R-1 zoning; zoning compliance is legal; and the subject's highest and best use is its present use as a single family dwelling. Page 3 disclosed the appraisal is intended for the use in a mortgage finance transaction only. The report is not intended for any other use.

Under the cost approach to value, the appraiser estimated the subject's site value to be \$65,000 based on sales in the area, which were not contained within the appraisal report. The subject dwelling's cost new was estimated to be \$362,168 using the Marshall and Swift Cost Service. Physical depreciation was estimated to be \$65,190 based on the age of the dwelling. The appraiser also deducted \$55,000 for external obsolescence because the subject dwelling is encroaching on a neighbor's property. Therefore, the appraiser calculated the subject dwelling has a depreciated cost new of \$241,978. Adding the estimated value for site improvements of \$15,500 and land value of \$65,000, the appraiser concluded a final value for the subject property under the cost approach of \$322,478.

Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales. Two sales were located in close proximity to the subject while one comparable was located a distance from the subject in a neighboring community. The comparables consist of one-story style brick and frame dwellings that are from 2 to 13 years old. The comparables are situated on irregularly shaped lots ranging in size from 9,126 to 22,965 square feet of land area. Only comparable 3 has a lake front lot like the subject. The comparables contain partial finished basements, central air conditioning, one or two fireplaces, various decks, porches and patios, and two or three-car garages. The dwellings are reported to range in size from 2,050 to 2,440 square feet of living area. The comparables sold for prices ranging from \$300,000 to \$355,000 or from \$122.95 to \$166.82 per square foot of living area including land. The transactions occurred from April to October of 2005.

The appraiser adjusted the comparables for differences to the subject for site size, age, dwelling size, room count, and amenities. Specifically, the sites for comparables 1 and 2 were adjusted by \$20,000 because of the lack of lake frontage. In addition, all the comparables were adjusted downward by \$55,000 for "marketable". In the summary of the sales comparison approach, the appraisal report explained "currently there are zoning (zoning) issues. Owner stated the subject property is

encroaching upon neighbors property. Until this is resolved, property is not marketable". The appraiser's adjustments resulted in adjusted sale prices ranging from \$266,700 to \$311,400. Based on these adjusted sales, the appraiser concluded the subject property has a fair market value of \$291,000 or \$116.40 per square foot of living area including land under the sales comparison approach.

The appraiser did not reconcile the two approaches to value; however, it appears the appraiser placed most reliance on the sales comparison approach to value in arriving at a final value conclusion of \$291,000 as of March 1, 2006. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$118,820 was disclosed. The subject's assessment reflects an estimated market value of \$356,068 or \$140.74 per square foot of living area including land using Madison County's 2005 three-year median level of assessments of 33.37%.

In support of the subject's assessment, the board of review submitted a copy of a certified letter sent to the appellants; a copy of a letter sent to the building and zoning administrator for the Village of Glen Carbon; a copy of a response letter from the Glen Carbon Building and Zoning Department; and an appraisal of the subject property.

The copy of the certified letter sent to the appellants from the Madison County Board of Review, which was dated April 11, 2007, indicates the board of review must submit evidence to the Property Tax Appeal Board due to the assessment complaint filed by the taxpayers. The board of review's letter states it was necessary for the office appraiser, Barry Loman, to come into the subject property on behalf of the board of review. The letter gave instruction and a time frame to contact Loman.

The copy of the letter sent to the building and zoning administrator for the Village of Glenn Carbon from the Madison County Board of Review, which was dated April 11, 2007, indicated the appellants filed complaint with the Property Tax Appeal Board seeking a reduction in the subject property's assessment due to the dwelling not being in compliance with village zoning regulations and set back ordinance. By this letter, the Madison County Board of Review requested information, including a house diagram, indicating whether the appellants' dwelling is in compliance with Glen Carbon Building & Zoning Regulations regarding the Set Back Ordinance.

In a response letter dated April 16, 2007, the Glen Carbon Building & Zoning Department indicated the department reviewed the original site plan for the subject property. The letter revealed the subject lot has rear setback in excess of 25'-0". A copy of the site plan was attached. In addition, the letter indicated the plat of survey submitted by the appellants shows a 25'-0" set back along a side of the property line that is shown as 31.48' and 90', which is actually a side set back. The letter states the actual rear set back is determined from the area labeled as "Lake" and the proper distances are shown as a rear set back. The letter further states "This letter will certify that the structure located at this location is in conformance with the requirements of the Glen Carbon Zoning Ordinance."

The appraisal submitted by the board of review estimated a fair market value for the subject property of \$360,000 as of January 1, 2005. The appraiser developed the cost and sales comparison approaches to value in arriving at the final value conclusion. Page 1 of the appraisal disclosed the subject has RS-10 zoning; zoning compliance is legal; and the subject's highest and best use is its present use as a single family dwelling. In addition, the report indicates the property owner did not permit the appraiser to inspect the interior of the property. The appraiser noted no deterioration from the exterior.

Under the cost approach to value, the appraiser estimated subject's site value to be \$65,000 based on vacant land sales in the area, which were not contained within the appraisal report. The subject dwelling's replacement cost new was estimated to be \$384,266 using Marshall and Swift Cost Service Physical depreciation was estimated to be \$70,321 using the age/life method of depreciation. Therefore, the appraiser calculated the subject dwelling has a depreciated replacement cost new of \$313,945. Adding the estimated value for site improvements of \$5,000 and the estimated land value of \$65,000, the appraiser concluded a final value for the subject property under the cost approach of \$383,900.

Under the sales comparison approach to value, the appraiser utilized five suggested comparable sales. Three sales are located in close proximity to the subject while two comparables are located 1.71 and 2.5 miles from the subject, respectively, but are located in the subject's community of Glen Carbon. The comparables consist of one-story style brick and frame dwellings that are from new construction to 13 years old. Two comparables have lake front lots like the subject. Four comparables contain partial finished basements. Other features include central air conditioning, one or two fireplaces, various decks, porches and patios, and three-car garages. The dwellings are reported to range in size from 1,753 to 2,342 square feet of living area.

The comparables sold for prices ranging from \$322,500 to \$380,000 or from \$152.13 to \$192.89 per square foot of living area including land. The transactions occurred from August 2004 to April 2005.

The appraiser adjusted the comparable sales for differences to the subject for date of sale, site size, age, dwelling size, finished basement area, and various amenities. The appraiser's adjustments resulted in adjusted sale prices ranging from \$342,200 to \$372,700 or from \$155.74 to \$212.60 per square foot of living area including land. Based on these adjusted sales, the appraiser concluded the subject property has a fair market value of \$360,000 or \$142.29 per square foot of living area including land under the sales comparison approach.

When reconciling the two approaches of value, the appraiser considered the sales comparison approach to value most reliable because it reflects direct market reactions of buyers and sellers. Thus, the appraiser concluded the subject property has a fair market value of \$360,000 as of January 1, 2005. Based on this evidence, the board of review requested confirmation of the subject's assessed valuation.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellants argued the subject property was overvalued. Specifically, the appellants claim the subject property's market value is diminished because of a zoning violation, which renders the property without a marketable title. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellants have not overcome this burden. The appellants submitted an appraisal estimating the subject's fair market value of \$291,000 as of March 1, 2006, which is over one year subsequent to the subject's January 1, 2005 assessment date at issue in this appeal. In addition, the appellants submitted a plat of survey which purportedly shows a side of the subject dwelling crosses a set back line. The Board gave less weight to these documents.

With respect to the appraisal submitted by the appellants, the Board finds the appraiser's final value conclusion to be unsupported. Furthermore, the board finds the appraisal to be inconsistent in certain areas of importance. Page 1 of the appraisal disclosed the subject has residential zoning that is in

legal compliance with local regulations and its highest and best use is its present use as a single family dwelling. Additionally, page 1 of the report indicates the subject property does not suffer from any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.) However, page 2 of the report states: "Currently there are zoning (zoning) issues. Owner stated the subject property is encroaching upon neighbors property. Until this is resolved, property is not marketable". The Board finds the validity of the appraiser's value opinion is undermined based on the aforementioned discrepancies within the appraisal report.

The Board further finds the appellant's appraiser adjusted all the comparable sales under the sales comparison approach downward by \$55,000 for "marketable" and deducted \$55,000 under the cost approach for external obsolescence. First, the Board finds the appraisal report does not contain any independent analysis or credible documentation showing the subject property has "zoning issues"; that the subject dwelling is in violation of any local zoning ordinance; or that the property does not hold a "marketable" title. Rather, it appears the appraiser simply relied on the appellants' claim of the purported zoning violations and the lack of a "marketable title" in concluding the subject's fair market value was diminished without foundational investigation. Second, even if the appellants had adequately demonstrated that the subject property violated some type of zoning regulation, the appraisal report contained no market derived evidence, such as a paired sales analysis, to support the large \$55,000 deduction amount within the cost and sales comparison approaches.

Finally, the Property Tax Appeal Board finds the best evidence in this record demonstrates the subject dwelling is not in violation of local zoning regulations. The board of review submitted a letter from the Glen Carbon Building & Zoning Department indicating the department reviewed the original site plan for the subject property. The letter and site plan revealed the subject lot has rear set back line in excess of 25'-0". In addition, the letter indicates that the plat of survey submitted by the appellants showing the subject dwelling crosses a rear set back line is actually a side set back line. The letter further states the actual rear set back is determined from the area labeled as "Lake" and the proper distances are shown as a rear set back. Most importantly, the letter states that the subject dwelling's location on its site is in conformance with the requirements of the Glen Carbon Zoning Ordinance. The Board finds this evidence was un-refuted by the appellants and further detracts from the plat of survey submitted by the appellants and their corresponding arguments.

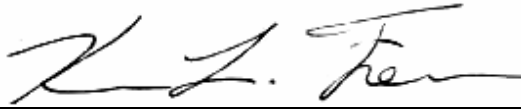
The Property Tax Appeal Board finds the best evidence of the subject property's fair market value is the appraisal submitted by the board of review that was prepared by Barry T. Loman. Loman estimated the subject's fair market value to be \$360,000 as of January 1, 2005, using two of the three traditional approaches to value. In reviewing the appraisal, the Property Tax Appeal Board finds Loman prepared the appraisal in accordance with Uniform Standards of Professional Appraisal Practice and supported the appraisal methodology and final value conclusion. The subject's assessment reflects an estimated market value of \$356,068, which is less than the appraisal submitted by the board of review. Therefore, the Board finds no reduction in the subject's assessed valuation is warranted.

In conclusion, the Board finds the appellants failed to demonstrate the subject property was overvalued by a preponderance of the evidence. In addition, the Board finds the evidence demonstrates the subject's estimated market value as reflected by its assessment is supported. As a result of this analysis, the Property Tax Appeal Board finds the subject's assessment as established by the board of review is correct and no reduction is warranted.


This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member

Member

Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 29, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the

session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.